United Nations A/65/579

General Assembly

Distr.: General
18 November 2010
English
Original: Spanish

Sixty-fifth session
Agenda item 15, 18, 20, 24, 25, 33, 42, 70 and 74

Culture of peace

Macroeconomic policy questions

Sustainable development

Eradication of poverty and other development issues

Operational activities for development: operational activities for development of the United Nations system

Prevention of armed conflict

The situation in Central America: progress in fashioning a region of peace, freedom, democracy and development

Report of the International Court of Justice

Oceans and the law of the sea

Letter dated 16 November 2010 from the Permanent Representative of Nicaragua to the United Nations addressed to the Secretary-General

I have the honour to transmit to you herewith a copy of the Declaration by the branches of Government of the Republic of Nicaragua with regard to the supposed border dispute with Costa Rica (see annex).

In that connection, I should be grateful if you would have the above-mentioned note circulated as a General Assembly document under agenda items 33, 42, 15, 18, 20, 24, 25, 74 and 70.

(*Signed*) Maria **Rubiales**
Deputy Minister for Foreign Affairs and
Permanent Representative of Nicaragua to the United Nations

10-64315 (E) 231110 241110

Please recycle

Annex to the letter dated 16 November 2010 from the Permanent Representative of Nicaragua to the United Nations addressed to the Secretary-General

Declaration by the branches of Government of the Republic of Nicaragua with regard to the supposed "border" dispute with Costa Rica

The branches of Government of the Republic of Nicaragua (executive, legislative, judicial and electoral), and all constitutionally established institutions, having met with the President of the Republic in his capacity as Head of State,[1] at the Casa de los Pueblos, Managua, on Monday 15 November 2010, with the aim of considering the dispute with Costa Rica, deem it necessary that the national and international community should be fully aware of our position as the sovereign and independent State of the Republic of Nicaragua.

I

Bearing in mind that the cause of this dispute has historical roots in the Cañas-Jérez Treaty, which was imperfectly ratified by the Republic of Nicaragua, in accordance with the Constitution in force at that time,

Article 5, paragraph 2 of the Political Constitution of the Republic of Costa Rica of 7 November 1949 provides that "the boundaries of the Republic are those established by the Cañas-Jérez Treaty of April 15, 1858, ratified by the Cleveland Award of March 22, 1888, with respect to Nicaragua ...".

In light of the International Court of Justice Judgment of 13 July 2009, which ratifies the Cleveland Award in its entirety, no border dispute exists with the Republic of Costa Rica. The Judgment put an end to any claim by Costa Rica and is now res judicata. As a result, all that remains to be done is to place the survey markers, with which our country is in full agreement.

II

Faced with the disorganized meeting of the Permanent Council of the Organization of American States (OAS) held on Friday, 12 November, Nicaragua finds itself obliged to withdraw from any OAS activity relating to Costa Rica's supposed border dispute with Nicaragua, since the Organization of American States, by its very nature, is a political body of the Latin American States, not a court or tribunal, and has no authority to hear any border dispute. Nicaragua will not discuss matters of sovereignty and control of its territory with the Organization of American States.

III

Bearing in mind that we deliver to Costa Rica 90 per cent of the waters of the Colorado River and since Nicaragua has still not restored the flow of the river and its outlet, while we continue to work on cleaning the river and establishing an outlet across Harbour Head, Costa Rica should accept that Nicaragua is entitled to the

[1] Art. 144 of the Constitution.

same treatment with regard to navigation of the Colorado River, since Costa Rica is able to navigate the San Juan River for 140 kilometres and then navigate the Colorado River, which has permanent flow fed by Nicaragua's lakes and rivers.

The use and navigation of rivers by various countries, and rights of way, are nothing new in public international law.[2] What we are seeking is equal and fair treatment; just as they benefit from the San Juan River, so can we choose to navigate the Colorado River under the same conditions, and with the same prerogatives, facilities and privileges as Costa Rica enjoys in navigating our rivers; this could be a matter for the Binational Commission, or failing that, the subject of an application to the International Court of Justice.

IV

Nicaragua, in full exercise of its sovereignty and in compliance with State policies for combating drug trafficking and organized crime, will continue to exercise fully its rights in its national territory, and in the present case it has been fully demonstrated that the Nicaraguan Army has exercised its rights within our national territory and that at no time has it invaded foreign territory.

Lastly, Nicaragua reiterates its right to continue cleaning and dredging the San Juan River, as well as its willingness to engage in dialogue and negotiation for the peaceful settlement of disputes.

(*Signed*) Daniel **Ortega Saavedra**
President of the Republic of Nicaragua
Executive Branch

(*Signed*) Rene **Nuñez Téllez**
Member of parliament, President of the National Assembly
Legislative Branch

(*Signed*) Marvin **Aguilar García**
Judge, Vice-President of the Supreme Court of Justice
Judicial Branch

(*Signed*) Roberto **Rivas Reyes**
Judge, President of the Supreme Electoral Council
Electoral Branch

(*Signed*) Julio **Centeno Gómez**
Attorney-General of the Republic of Nicaragua

(*Signed*) Guillermo **Arguello Poessy**
President of the Office of the Comptroller General
of the Republic of Nicaragua

(*Signed*) Cardinal Miguel **Obando y Bravo**
Honorary witness

[2] Navigation on the Rhine, Danube, etc.